



## MEMORANDUM

**TO:** Henry Hill, Deputy City Manager

**FROM:** John W. Bruce, Chief of Police *JB*

**SUBJ:** 2016 Bias-Based Policing Report

**DATE:** February 21, 2017

### Introduction

For the purpose of this report, biased based profiling is defined as a practice in which a police officer action is based solely on a trait common to a group. This includes, but is not limited to, race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group. The belief by many that biased based profiling occurs routinely in our country's police departments has caused obvious concern amongst the nation's communities including Frisco.

Since January 1, 2002, the Frisco Police Department, in accordance with the Texas Racial Profiling Law (S.B. No. 1074), has been collecting police contact data for the purpose of identifying and responding (if necessary) to concerns regarding racial profiling practices. The attached report provides statistical data relevant to the public contacts made during the period of 1/1/16 to 12/31/16. In addition to the mandated data, an analysis of the data and recommendations for future areas of research has been included.

In conclusion, the findings suggest that the Department does not currently experience a problem regarding biased based profiling practices. The continuing effort to collect police contact data will enable an on-going evaluation of police practices. Thus, allowing for the citizens of the community to benefit from professional and courteous service from their police department.

If you have any questions or comment, feel free to contact me. If Council would like to further discuss this report at a work session or council meeting, let me know.



## MEMORANDUM

**TO:** John W. Bruce, Chief of Police

**FROM:** Wes Colvin, Lieutenant *W Colvin/3263*

**SUBJECT:** 2016 Biased Based Profiling Report

**DATE:** February 21, 2017

### Introduction

The Frisco Police Department, in accordance with the Texas Racial Profiling Law (S.B. No. 1074), has been collecting police contact data for the purpose of identifying and responding (if necessary) to concerns regarding biased based profiling practices. The law also requires that the police department submit to the governing body (city council) an annual report of the information collected. The purpose of this annual report is to provide statistical data and analysis for a year's worth of traffic stop data covering the period of January 1, 2016 through December 31, 2016. To accomplish this, this report will focus upon the following topics:

1. How the traffic stop data was collected
2. An overview of the racial/ethnic data collected
3. An analysis of what the Department believes the statistics mean, as well as what the Department has learned from the data
4. Problems Identified when Analyzing the Data
5. Recommendations Addressing Issues of Concern

### How the Traffic Stop Data Was Collected

The Texas Racial Profiling Law (SB 1074) mandated collection of information relating to motor vehicle stops in which a citation is issued or there are arrests resulting from those stops. The data (called Tier 1 data) would include:

1. The race or ethnicity of the individual detained
2. Whether a search was conducted
3. Whether the search was consensual

### **An Overview of the Racial/Ethnicity Data Collected**

Table 2 contains the information collected from traffic stops in 2016 where a citation was issued or an arrest was made. Table 1 contains the information collected from motor vehicle stops in 2015 where a citation was issued or an arrest was made. Table 1 is provided for comparison purposes. Assignment of race and/or ethnicity to a category is either as stated by the stopped person or as determined by the officer to best of his ability. In 2010, officers were required to collect data as to whether they knew a person's race or ethnicity prior to a stop being made. A consensual search is determined by a request from the officer to conduct a search. The person stopped is under no obligation to consent to the search. If they do not consent, then the officer must have probable cause for the search. This would include search incident to an arrest, inventory of vehicle after arrest, or other probable cause for searches without a warrant.

For example, Table 1 reads that in 2015 we stopped 8494 Caucasians and either issued a citation or made an arrest. This accounted for 57.08% of all traffic stops. Of all the Caucasians stopped 3.41% of them were searched. 29.66% of the searches were consensual and the rest non-consensual. 5.16% of Caucasians stopped were arrested for the traffic violation or other charges.

Table 1. General Demographics of Contacts and Searches 2015

Race/Ethnicity *	Contacts		Searches		Consensual Searches		Non- Consensual Searches		Custody Arrest	
	N	%	N	%	N	%	N	%	N	%
Caucasian	8494	57.08	290	3.41	86	29.66	204	73.18	438	5.16
African American	2120	14.25	154	7.26	30	19.48	124	78.38	249	11.75
Hispanic	2838	19.07	167	5.88	43	25.75	124	75.97	272	9.58
Asian	634	4.26	8	1.26	1	12.5	7	42.86	11	1.74
Middle Eastern	788	5.3	10	1.27	2	20	8	50	9	1.14
Native American	6	.04	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>14880</b>	<b>100</b>	<b>629</b>	<b>4.23</b>	<b>162</b>	<b>25.76</b>	<b>467</b>	<b>74.24</b>	<b>979</b>	<b>6.58</b>

\*Race/Ethnicity are defined by SB 1074 as being of a "particular descent, including Caucasian, African, Hispanic, Asian, or Native America"



Table 2 reads that in 2016 we stopped 7889 Caucasians and either issued a citation or made an arrest. This accounted for 56.62% of all traffic stops. Of all the Caucasians stopped 4.41% of them were searched. 32.18% of the searches were consensual and the rest non-consensual. 1.73% of Caucasians stopped were arrested for the traffic violation or other charges.

Table 2. General Demographics of Contacts and Searches 2016

Race/Ethnicity *	Contacts		Searches		Consensual Searches		Non- Consensual Searches		Custody Arrest	
	N	%	N	%	N	%	N	%	N	%
Caucasian	7889	56.62	348	4.41	112	32.18	236	67.82	383	1.73
African American	2094	15.03	183	8.74	43	23.50	140	76.50	226	3.85
Hispanic	2539	18.22	140	5.51	37	26.43	103	73.57	191	3.46
Asian	668	4.79	17	2.54	3	17.65	14	82.35	18	0.82
Middle Eastern	736	5.28	6	0.82	2	0.33	4	0.67	7	0.34
Native American	8	.06	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	0	0
Total	13934	100	694	4.98	197	28.39	497	71.61	825	2.18

\*Race/Ethnicity are defined by SB 1074 as being of a "particular descent, including Caucasian, African, Hispanic, Asian, or Native American".

Table 3 contains a breakdown of traffic stops that resulted in custodial arrests where those arrests were for active arrest warrants as opposed to any traffic violation that provided the probable cause for the original stop. The total arrest numbers vary slightly from Table 2 as this data additionally accounts for passengers who may have been arrested during the course of a traffic stop. In 2016, 417 Caucasians were arrested as a result of having warrants that were learned about during a traffic stop. Frisco residents accounted for 48 of those arrest, while non-residents accounted for 80 arrests. Of the total arrests of African Americans during 2016, 38.56% resulted from warrants discovered during a traffic stop where the arrested person was not a resident of Frisco. Across all races, the data consistently shows that non-Frisco residents account for a higher percentage of arrests due to vehicle occupants having active arrest warrants when encountered during the course of a traffic stop.

Table 3. General Demographics of Custodial Arrests Arising from Traffic Stops 2016

Race/Ethnicity*	Arrests		Arrests with Warrants Resident		Arrests with Warrants Non-Res		Total Warrant Arrests	
	N	%	N	%	N	%	N	%
Caucasian	417	45.47	48	11.51	80	19.18	128	30.70
African American	236	25.74	37	15.68	91	38.56	128	54.24
Hispanic	237	25.85	29	12.24	65	27.43	94	39.66
Asian	23	2.51	2	8.70	4	17.40	6	26.09
Other/Unknown	4	0.44	0	0	0	0	0	0
Total	917	100	116	12.65	240	26.17	356	38.82

\*Race/Ethnicity are defined by SB 1074 as being of a "particular descent, including Caucasian, African, Hispanic, Asian, or Native American".

### Department's Analysis of the Data/Lessons Learned

This is the fourteenth year that this report is required. Agencies across the state are still determining the best and most accurate means of capturing, reporting, and comparing data to achieve meaningful analysis. The data presented in this report contains valuable information regarding police contacts with the public between 1/1/16 and 12/31/16. Despite its value, the raw data does not present much information relevant to racial profiling trends. Although further analysis of the data is warranted, it is problematic. The experts in this field identify two sources. One is census data for our community and the second is DPS data for licensed drivers in our community. Both sources present challenges to any effort made at establishing a fair and accurate analysis. Census data contains information of all residents of a particular community, regardless of the fact they may or may not be among the driving population. DPS data is only available sorted by zip code and 75033/75034/75035 contains driver information for persons living outside the city. DPS data, at least, identifies those persons who ought to be driving in Frisco, but certainly cannot account for drivers coming here to work, shop or just passing through. Both of these data integrity issues have a tendency of inflating the overall figures; thus, providing an inaccurate representation of police contacts with the public. Without the ability to confirm the demographic makeup of every person driving in and about the City of Frisco throughout the year and accounting for each incident of said driving, the previous two data sources are the primary avenues of information. Having said that, experts agree that you should compare it to something.

A comparison of city residents who were cited or arrested during a traffic stop during 2016 with those who, according to DPS, were residents of 75033/75034/75035 during that time and held a valid driver's license was completed.



The DPS data showed that 68.04% of residents that were Caucasian, 8.80% were African-American, .37% were Native American, 16.46% were Asian, 4.22% were Hispanic, and Middle Eastern are currently combined with Caucasian according to DPS statistics given. Note this is the first year DPS has divided the Hispanic and Caucasian category. It will take another four years before they are divided up fully due to the driver's license renewal cycle being six years.

Our data showed that of the persons either cited or arrested, approximately 31.98% (4456) were Frisco residents. Caucasians accounted for 57.90%, Middle Eastern 8.95%, Hispanics 13.13%, African-Americans for 14.30%, Native American .09%, Asians for 5.63%, and the rest were classified as other.

Unfortunately the data doesn't tell the full picture. Currently there is no way to include inflow of traffic and the demographic changes that occur with those. With all the surges that occur due to sporting events, concerts, the mall, general shopping spillover from surrounding cities, and people who work here, but don't live here, there is no effective way to measure the demographics of all drives in Frisco. Until methods of capturing this data can be compiled, the data is going to continue to be a partial snapshot every year.

#### Profiling Complaints Received

	Complaints	Sustained	Unfounded	Exonerated	Not Sustained
2013	6	0	6	0	0
2014	2	0	2	0	0
2015	4	0	4	0	0
2016	8	0	3	4	1

During this past year we received eight profiling complaints. All eight of the profiling complaints received were investigated by the Professionals Standards Unit. During this past year the department continued its effort to encourage citizens to report/complain of any incident where they felt officers of the department may have been participating in biased based practices. All of the complaints received in 2016, three were unfounded, four were exonerated, and one was not sustained.

In conclusion, the findings suggest that the Department does not currently experience a problem regarding biased based profiling practices. The continuing effort to collect police contact data will enable an on-going evaluation of police practices. Thus, allowing for the citizens of the community to benefit from professional and courteous service from their police department.

#### Recommendations Addressing Issues of Concern

Beyond the collection of data, the Department will continue to publish information about the Bias Based Profiling Policy to its personnel and also the public. Complaints of bias based profiling will be investigated. I have attached a copy of Tier 1 – Partial Exemption Racial Profiling Report as reported to TCOLE (Attachment A), and our Bias Based Profiling Policy (attachment B).

If you have any questions or comments, feel free to contact me.

## **Appendix A**

### **Tier 1 – Partial Exemption Racial Profiling Report reported to TCOLE**

# Racial Profiling Report | Tier one

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<b>Agency Name:</b>	Frisco Police Department
<b>Reporting Date:</b>	02/21/2017
<b>TCOLE Agency Number:</b>	85210
<b>Chief Administrator:</b>	John W. Bruce
<b>Agency Contact Information:</b>	
<b>Phone:</b>	972-292-6000
<b>Email:</b>	N/A
<b>Mailing Address:</b>	7200 Stonebrook Parkway Frisco Texas 75034

This Agency claims partial racial profiling report exemption because:

Our vehicles that conduct motor vehicle stops are equipped with video and audio equipment and we maintain videos for 90 days.

Certification to This Report 2.132 (Tier 1), Partial Exemption

Article 2.132(b) CCP Law Enforcement Policy on Racial Profiling

Frisco Police Department has adopted a detailed written policy on racial profiling. Our policy:

- 1.) clearly defines acts constituting racial profiling;
- 2.) strictly prohibits peace officers employed by the Frisco Police Department from engaging in racial profiling;
- 3.) implements a process by which an individual may file a complaint with the Frisco Police Department if the individual believes that a peace officer employed by the Frisco Police Department has engaged in racial profiling with respect to the individual;
- 4.) provides public education relating to the agency's complaint process;
- 5.) requires appropriate corrective action to be taken against a peace officer employed by the Frisco Police Department who, after an investigation, is shown to have engaged in racial profiling in violation of the Frisco Police Department's policy adopted under this article;
- 6.) require collection of information relating to motor vehicle stops in which a citation is issued and to arrests made as a result of those stops, including information relating to:
  - a.) the race or ethnicity of the individual detained;



b.) whether a search was conducted and, if so, whether the individual detained consented to the search; and

c.) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and

7.) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit an annual report of the information collected under Subdivision(6) to:

a.) the Commission on Law Enforcement; and

b.) the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.

**Executed by:** John W. Bruce

Chief Administrator

**Frisco Police Department**

**Date:** 02/21/2017

Total stops: 13934

Number of motor vehicle stops

**Citation only: 13109**

**Arrest only: 825**

**Both: 0**

Race or ethnicity

**African: 2094**

**Asian: 668**

**Caucasian: 7889**

**Hispanic: 2539**

**Middle eastern: 736**

**Native american: 8**

Was race known ethnicity known prior to stop?

**Yes: 148**

**No: 13786**

Was a search conducted

**Yes: 694**

**No: 13240**

Was search consented?

**Yes: 197**

**No: 497**

Submitted electronically to the



The Texas Commission on Law Enforcement

## **Appendix B**

### **Frisco Police Department Biased Based Profiling Policy**





## **GENERAL ORDER 6.20**

**ISSUED:** December 1, 2001

**REVISED:** August 19, 2016

**EFFECTIVE:** August 19, 2016

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### **BIAS BASED PROFILING**

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**Standards:** 1.2.9a, 1.2.9b, 1.2.9c, 1.2.9d

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#### **6.20.01 PURPOSE.**

The purpose of the policy is to reaffirm the Frisco Police Department's commitment to unbiased policing in all its encounters between an officer and any person; to reinforce procedures that serve to ensure public confidence and mutual trust through the provision of services in a fair and equitable fashion; and to protect our officers from unwarranted accusations of misconduct when they act within the dictates of departmental policy and the law.

#### **6.20.02 POLICY.**

It is the policy of this department to police in a proactive manner and to aggressively investigate suspected violations of law. Officers shall actively enforce state and local laws in a responsible and professional manner, without bias. Officers are strictly prohibited from engaging in bias based profiling as defined in this policy. This policy shall be applicable to all persons, whether drivers, passengers or pedestrians; traffic contacts, field contacts, and in asset seizure and forfeiture efforts. [1.2.9a]

Officers shall conduct themselves in a dignified and respectful manner at all times when dealing with the public. Two of the fundamental rights guaranteed by both the United States and Texas constitutions are equal protection under the law and freedom from unreasonable searches and seizures by government agents. The right of all persons to be treated equally and to be free from unreasonable searches and seizures must be respected. Racial profiling is an unacceptable patrol tactic and will not be condoned.

This policy shall not preclude officers from offering assistance, such as upon observing a substance leaking from a vehicle, a flat tire, or someone who appears to be ill, lost or confused. Nor does this policy prohibit stopping someone suspected of a crime based upon observed actions and/or information received about the person.

#### **6.20.03 DEFINITIONS.**

A. **BIAS BASED PROFILING** – A law enforcement-initiated action based solely on a trait common to a group.

1. The Frisco Police Department is prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted by the City of Frisco. Remedies and complaint filing deadlines vary by

program or incident.

2. Bias based profiling pertains to persons who are viewed as suspects or potential suspects of criminal behavior. The term is not relevant as it pertains to witnesses, complainants or other citizen contacts.
  3. The prohibition against bias based profiling does not preclude the use of race, ethnicity or national origin as factors in a detention decision. Race, ethnicity or national origin may be legitimate factors in a detention decision when used as part of an actual description of a specific suspect for whom an officer is searching. Detaining an individual and conducting an inquiry into that person's activities simply because of that individual's race, ethnicity or national origin is racial profiling.
  4. Examples of bias based profiling include but are not limited to the following:
    - a. Citing a driver who is speeding in a stream of traffic where most other drivers are speeding because of the cited driver's race, ethnicity or national origin.
    - b. Detaining the driver of a vehicle based on the determination that a person of that race, ethnicity or national origin is unlikely to own or possess that specific make or model of vehicle.
    - c. Detaining an individual based upon the determination that a person of that race, ethnicity or national origin does not belong in a specific part of town or a specific place.
  5. A law enforcement agency can derive two principles from the adoption of this definition of bias based profiling:
    - a. Police may not use bias as a factor in selecting whom to stop and search, while police may use race in conjunction with other known factors of the suspect.
    - b. Law enforcement officers may not use bias as a factor in selecting whom to stop and search. Bias based profiling is not relevant as it pertains to witnesses, etc.
- B. RACE OR ETHNICITY – Of a particular descent, including but not limited to Caucasian, African, Hispanic, Asian, Native American, or Middle Eastern.
- C. MOTOR VEHICLE STOP – A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance regulating traffic.

#### **6.20.04 TRAINING.**

- A. Officers are responsible to adhere to all Texas Commission on Law Enforcement (TCOLE) training and the Law Enforcement Management Institute of Texas (LEMIT) requirements as mandated by law.
- B. Officers will attend and successfully complete any training as required by the department regarding bias based profiling. The department will offer training on bias based profiling that includes field contacts, traffic stops, search issues, asset seizure and forfeiture, interview techniques, cultural diversity, discrimination, and community support. [1.2.9b]

#### **6.20.05 COMPLAINT INVESTIGATION.**



- A. The department shall accept complaints from any person who believes he or she has been stopped or searched based on racial, ethnic or national origin profiling. No person shall be discouraged, intimidated or coerced from filing a complaint, nor discriminated against because he or she filed such a complaint.
- B. Any employee who receives an allegation of bias based profiling, including the officer who initiated the stop, shall record the person's name, address and telephone number, and forward the complaint through the appropriate channel or direct the individual(s) to a supervisor. Any employee contacted shall provide to that person a copy of a complaint form or the department process for filing a complaint. All employees will report any allegation of bias based to their superior before the end of their shift.
- C. Investigation of a complaint shall be conducted in a thorough and timely manner and in accordance with G. O. 3.05 Professional Standards. [1.2.9c]
- D. If there is a departmental video or audio recording of the events upon which a complaint of bias based profiling is related to, upon commencement of an investigation by this department into the complaint and written request of the officer made the subject of the complaint, this department shall promptly provide a copy of the recording to that officer.

#### **6.20.06 PUBLIC EDUCATION.**

This department will inform the public of its policy against bias based profiling and the complaint process. Methods that may be utilized to inform the public are the news media, radio, service or civic presentations, the Internet, Department Social Media, as well as governing board meetings. Additionally, information will be made available as appropriate in languages other than English.

#### **6.20.07 USE OF VIDEO AND AUDIO EQUIPMENT.**

- A. Each motor vehicle regularly used by this department to make traffic and pedestrian stops is equipped with a video camera and transmitter-activated equipment, and each motorcycle regularly used by this department to make traffic and pedestrian stops is equipped with recording equipment; and
- B. Each motor vehicle and pedestrian stop made by an officer of this department that is capable of being recorded by video and audio, is recorded.
- C. This department shall retain the video of each motor vehicle and pedestrian stop for at least ninety (90) days after the date of the stop. If a complaint is filed with this department alleging that one of our officers has engaged in bias based profiling with respect to a traffic or pedestrian stop, this department shall retain the video of the stop until final disposition of the complaint.
- D. Supervisors will ensure officers of this department are recording their motor vehicle and pedestrian stops. A recording of each officer will be reviewed at least once every ninety (90) days.
- E. If the equipment used to record audio and/or video of motor vehicle or pedestrian stops is malfunctioning or otherwise not operable, the officer making the stop may properly record and report the information as required in 6.20.08.
- F. In circumstances where an Officer's video and audio equipment is not functioning or not available officers are still required to collect the required bias based profiling data. This can be accomplished by communicating the data to dispatch at a later time, filling out a motor vehicle data collection form and submitting it, or the officer himself enters the required data via the MDC as soon as practical after the stop is completed.



**6.20.08 REQUIRED BIASED BASED PROFILING DATA TO BE COLLECTED.**

- A. Officers should collect all of the required biased based profiling data as outlined in the Texas Code of Criminal Procedure Section 2.133.

**6.20.09 REPORTING DATA.**

Not later than March 1<sup>st</sup> of each year, the department shall submit a report to their governing board that includes the information gathered by the citations. The report will include for motor vehicle operators only:

1. a breakdown of citations by race or ethnicity;
2. a breakdown of whether race/ethnicity was known prior to a motor vehicle stop;
3. a breakdown of initial reasons for motor vehicle stop;
4. number of citations that resulted in a search;
5. number of searches that were consensual; and
6. number of citations that resulted in custodial arrest for this cited violation or any other violation.

**6.20.10 ANNUAL REVIEW. [1.2.9d]**

An annual review, of the above reporting data to include complaints, will be submitted to the Chief of Police. This report will be created out of the office of the Assistant Chief. This report will review agency practices, to include any racial or bias complaints. It will also outline any citizen concerns that have been made available to the department.

**6.20.11 PRIOR ORDERS.**

From and after the effective date of issuance of this order, it shall be in full force and shall govern the operations of this department with regard to its subject matter. Former orders, policies, directives and memoranda relating to the subject matter are hereby specifically revoked and they shall be of no force and effect from and after the date of issuance of this order.

John W. Bruce  
Chief of Police

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Date